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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of : PATENT  
Herbert BALTES et al. :  
Serial No.: 10/567,781 : Art Unit: 3753  
Filed: : February 9, 2006 : Examiner:  
For: **DEVICE FOR DAMPING WATER** :  
**HAMMER** :

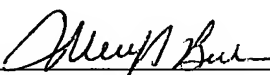
**SUBMISSION OF ENGLISH LANGUAGE  
PRELIMINARY EXAMINATION REPORT**

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

Submitted herewith is an English language Preliminary Examination Report for the  
above-identified application.

Respectfully submitted,

  
Mark S. Bicks  
Reg. No. 28,770

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Dated: September 13, 2006

From the INTERNATIONAL BUREAU

**PCT**

NOTIFICATION OF TRANSMITTAL  
OF COPIES OF TRANSLATION  
OF THE INTERNATIONAL PRELIMINARY REPORT  
ON PATENTABILITY  
(CHAPTER I OR CHAPTER II  
OF THE PATENT COOPERATION TREATY)  
(PCT Rules 44bis.3(c) and 72.2)

To:

**Bartels und Partner** Patentanwälte  
BARTELS UND PARTNER  
Lange Strasse 51  
70174 Stuttgart  
ALLEMAGNE

Eingegangen: 26. JULI 2006  
Received: 26. JULI 2006

TERMIN .....

Date of mailing (day/month/year) 20 July 2006 (20.07.2006)	
Applicant's or agent's file reference 40cdh/229156	IMPORTANT NOTIFICATION
International application No. PCT/EP2004/005451	International filing date (day/month/year) 21 May 2004 (21.05.2004)
Applicant HYDAC TECHNOLOGY GMBH et al	

## 1. Transmittal of the translation to the applicant.



The International Bureau transmits herewith a copy of the English translation of the international preliminary report on patentability (Chapter I).



The International Bureau transmits herewith a copy of the English translation of the international preliminary report on patentability (Chapter II).

## 2. Transmittal of the copy of the translation to the designated or elected Offices.

The International Bureau notifies the applicant that copies of that translation have been transmitted to the following designated or elected Offices requiring such translation:

None

The following designated or elected Offices, having waived the requirement for such a transmittal at this time, will receive copies of that translation from the International Bureau only upon their request:

AE, AG, AL, AM, AP, AT, AU, AZ, BA, BB, BG, BR, BW, BY, BZ, CA, CH, CN, CO, CR, CU, CZ, DE, DK, DM, DZ, EA, EC, EE, EG, EP, ES, FI, GB, GD, GE, GH, GM, HR, HU, ID, IL, IN, IS, JP, KE, KG, KP, KR, KZ, LC, LK, LR, LS, LT, LU, LV, MA, MD, MG, MK, MN, MW, MX, MZ, NA, NI, NO, NZ, OA, OM, PG, PH, PL, PT, RO, RU, SC, SD, SE, SG, SK, SL, SY, TJ, TM, TN, TR, TT, TZ, UA, UG, US, UZ, VC, VN, YU, ZA, ZM, ZW

## 3. Reminder regarding translation into (one of) the official language(s) of the elected Office(s).

The applicant is reminded that, where a translation of the international application must be furnished to an elected Office, that translation must contain a translation of any annexes to the international preliminary report on patentability (Chapter II).

It is the applicant's responsibility to prepare and furnish such translation directly to each elected Office concerned within the applicable time limit (Rule 74.1). See Volume II of the PCT Applicant's Guide for further details.

The International Bureau of WIPO  
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# PATENT COOPERATION TREATY

# PCT

## INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

(Chapter I of the Patent Cooperation Treaty)

(PCT Rule 44bis)

Applicant's or agent's file reference 40cdh/229156	<b>FOR FURTHER ACTION</b>	See item 4 below
International application No. PCT/EP2004/005451	International filing date ( <i>day/month/year</i> ) 21 May 2004 (21.05.2004)	Priority date ( <i>day/month/year</i> ) 13 August 2003 (13.08.2003)
International Patent Classification (8th edition unless older edition indicated) See relevant information in Form PCT/ISA/237		
Applicant HYDAC TECHNOLOGY GMBH		

1. This international preliminary report on patentability (Chapter I) is issued by the International Bureau on behalf of the International Searching Authority under Rule 44 bis.1(a).

2. This REPORT consists of a total of 8 sheets, including this cover sheet.

In the attached sheets, any reference to the written opinion of the International Searching Authority should be read as a reference to the international preliminary report on patentability (Chapter I) instead.

3. This report contains indications relating to the following items:

- |                                     |              |   |
|-------------------------------------|--------------|---|
| <input checked="" type="checkbox"/> | Box No. I    | Basis of the report   |
| <input checked="" type="checkbox"/> | Box No. II   | Priority  |
| <input type="checkbox"/>            | Box No. III  | Non-establishment of opinion with regard to novelty, inventive step and industrial applicability  |
| <input type="checkbox"/>            | Box No. IV   | Lack of unity of invention  |
| <input checked="" type="checkbox"/> | Box No. V    | Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement |
| <input type="checkbox"/>            | Box No. VI   | Certain documents cited   |
| <input type="checkbox"/>            | Box No. VII  | Certain defects in the international application  |
| <input checked="" type="checkbox"/> | Box No. VIII | Certain observations on the international application   |

4. The International Bureau will communicate this report to designated Offices in accordance with Rules 44bis.3(c) and 93bis.1 but not, except where the applicant makes an express request under Article 23(2), before the expiration of 30 months from the priority date (Rule 44bis .2).

The International Bureau of WIPO 34, chemin des Colombettes 1211 Geneva 20, Switzerland	Date of issuance of this report 10 July 2006 (10.07.2006)
Facsimile No. +41 22 338 82 70	Authorized officer  <div style="text-align: center; font-weight: bold;">Agnes Wittmann-Regis</div> e-mail: pt06@wipo.int

# PATENT COOPERATION TREATY

Translation

From the  
INTERNATIONAL SEARCHING AUTHORITY

# PCT

WRITTEN OPINION OF THE  
INTERNATIONAL SEARCHING AUTHORITY

(PCT Rule 43bis.1)

To:

Date of mailing  
(day/month/year)

Applicant's or agent's file reference  
**40cdh/229156**

**FOR FURTHER ACTION**

See paragraph 2 below

International application No.  
**PCT/EP2004/005451**

International filing date (day/month/year)  
**21.05.2004**

Priority date (day/month/year)  
**13.08.2003**

International Patent Classification (IPC) or both national classification and IPC

Applicant  
**HYDAC TECHNOLOGY GMBH**

**1. This opinion contains indications relating to the following items:**

- ☒ Box No. I Basis of the opinion
- ☒ Box No. II Priority
- ☐ Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
- ☐ Box No. IV Lack of unity of invention
- ☒ Box No. V Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
- ☐ Box No. VI Certain documents cited
- ☐ Box No. VII Certain defects in the international application
- ☒ Box No. VIII Certain observations on the international application

**2. FURTHER ACTION**

If a demand for international preliminary examination is made, this opinion will be considered to be a written opinion of the International Preliminary Examining Authority ("IPEA") except that this does not apply where the applicant chooses an Authority other than this one to be the IPEA and the chosen IPEA has notified the International Bureau under Rule 66.1bis(b) that written opinions of this International Searching Authority will not be so considered.

If this opinion is, as provided above, considered to be a written opinion of the IPEA, the applicant is invited to submit to the IPEA a written reply together, where appropriate, with amendments, before the expiration of 3 months from the date of mailing of Form PCT/ISA/220 or before the expiration of 22 months from the priority date, whichever expires later.

For further options, see Form PCT/ISA/220.

**3. For further details, see notes to Form PCT/ISA/220.**

Name and mailing address of the ISA/EP

Authorized officer

Facsimile No.

Telephone No.

WRITTEN OPINION OF THE  
INTERNATIONAL SEARCHING AUTHORITY

International application No.

PCT/EP2004/005451

Box No. I

Basis of this opinion

1. With regard to the language, this opinion has been established on the basis of the international application in the language in which it was filed, unless otherwise indicated under this item.  
☐ This opinion has been established on the basis of a translation from the original language into the following language  
\_\_\_\_\_, which is the language of a translation furnished for the purposes of international search (under Rule 12.3 and 23.1(b)).
2. With regard to any nucleotide and/or amino acid sequence disclosed in the international application and necessary to the claimed invention, this opinion has been established on the basis of:
  - a. type of material  
☐ a sequence listing  
☐ table(s) related to the sequence listing
  - b. format of material  
☐ in written format  
☐ in computer readable form
  - c. time of filing/furnishing  
☐ contained in the international application as filed.  
☐ filed together with the international application in computer readable form.  
☐ furnished subsequently to this Authority for the purposes of search.
3. ☐ In addition, in the case that more than one version or copy of a sequence listing and/or table(s) relating thereto has been filed or furnished, the required statements that the information in the subsequent or additional copies is identical to that in the application as filed or does not go beyond the application as filed, as appropriate, were furnished.
4. Additional comments:

WRITTEN OPINION OF THE  
INTERNATIONAL SEARCHING AUTHORITY

International application No.

PCT/EP2004/005451

Box No. II

Priority

1. ☒ The following document has not yet been furnished:

☒ copy of the earlier application whose priority has been claimed (Rule 43bis.1 and 66.7(a)).

☐ translation of the earlier application whose priority has been claimed (Rule 43bis.1 and 66.7(b)).

Consequently it has not been possible to consider the validity of the priority claim. This opinion has nevertheless been established on the assumption that the relevant date in the claimed priority date.

2. ☐ This opinion has been established as if no priority had been claimed due to the fact that the priority claim has been found invalid (Rules 43bis.1 and 64.1). Thus for the purposes of this opinion, the international filing date indicated above is considered to be the relevant date.

3. Additional observations, if necessary:

WRITTEN OPINION OF THE  
INTERNATIONAL SEARCHING AUTHORITY

International application No.

PCT/EP2004/005451

Box No. V

Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability;  
citations and explanations supporting such statement

1. Statement

Novelty (N)	Claims	3-7, 9	YES
	Claims	1, 2, 8	NO
Inventive step (IS)	Claims	3-7, 9	YES
	Claims	1, 2, 8	NO
Industrial applicability (IA)	Claims	1-9	YES
	Claims		NO

2. Citations and explanations:

- 1 This opinion makes reference to the following documents:
- D1: GB-A-1 163 335 (GREER HYDRAULICS INC.) 4 September 1969 (1969-09-04)
- D2: FR-A-2 542 403 (HUARTE BERASTEGUI EDUARDO) 14 September 1984 (1984-09-14)
- D3: EP-A-0 533 527 (PEUGEOT; CITROEN SA (FR)) 24 March 1993 (1993-03-24)
- D4: EP-A-0 230 715 (VERNAY LABORATORIES) 5 August 1987 (1987-08-05)

2 INDEPENDENT CLAIM 1

- 2.1 The present application does not meet the requirements of PCT Article 33(1) because the subject matter of claim 1 is not novel under PCT Article 33(2).
- D2 discloses:
- a device (figure 1) for damping pressure surges in hydraulic accumulators, which device is a component part of the accumulator 1, 11 and acts in the manner of a throttle on the fluid flow which is set up between parts of the interior of

WRITTEN OPINION OF THE  
INTERNATIONAL SEARCHING AUTHORITY

International application No.

PCT/EP2004/005451

Box No. V

Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability;  
citations and explanations supporting such statement

the accumulator and a hydraulic network to which the accumulator can be connected, wherein the throttle is formed from at least one passage point 81, 82, of predefineable cross-section, in a valve part 8, 9 which, in one valve position, cuts off the fluid flow up to the passage point and, in the other valve position, substantially unblocks said fluid flow, wherein the respective passage point is provided at at least one of its free ends with a funnel-shaped widened portion 81 and wherein the widened portion is oriented in the direction of the interior of the accumulator or in the direction of the hydraulic network.

2.2 The subject matter of claim 1 is likewise anticipated in a manner prejudicial to novelty by D3 and D4:

- D3 discloses in particular: a valve part 14 having a passage point 14b which is provided with a funnel-shaped widened portion (see figure 2 and column 2 line 52 to column 3 line 4).
- D4 discloses in particular: a device (see the embodiment of figures 1 and 8) **suitable** for damping pressure surges in hydraulic accumulators, having a valve part 22 and 62 with a passage point 24 and 64 which is provided with a funnel-shaped widened portion.

2.3 The subject matter of claim 1 cannot be considered inventive over D1. The claimed device differs from the device as per D1 by the characterizing features of claim 1, according to which the



WRITTEN OPINION OF THE  
INTERNATIONAL SEARCHING AUTHORITY

International application No.

PCT/EP2004/005451

Box No. V

Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability;  
citations and explanations supporting such statement

passage point is provided with a funnel-shaped widened portion. Said funnel-shaped widened portion is regarded merely as a conventional measure which can be adopted at the discretion of a person skilled in the art if, for example, turbulence is to be eliminated.

3 DEPENDENT CLAIMS 2, 8

The subject matter of claims 2 and 8 is anticipated in a manner prejudicial to novelty by D2, since D2 presents a passage point having two funnel-shaped widened portions which pass out of the valve part along from planar end faces.

4 DEPENDENT CLAIMS 3-7, 9

The combination of features contained in the dependent claims is neither known from nor suggested by the available prior art.

WRITTEN OPINION OF THE  
INTERNATIONAL SEARCHING AUTHORITY

International application No.

PCT/EP2004/005451

Box No. VIII      Certain observations on the international application

The following observations on the clarity of the claims, description, and drawings or on the question whether the claims are fully supported by the description, are made:

- 5      Claim 1 is unclear because it attempts to define a subject matter, specifically a damping device, by means of its relationship to a second subject matter, specifically the hydraulic accumulator, which is not contained in claim 1 (see Guidelines Part II, Chapter 5, Point 5.37).